

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6390 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GOHIL SADHANA RENUBHA

Versus

STATE OF GUJARAT

Appearance:

MR DP VORA for Petitioner
SERVED BY DS for Respondent No. 1, 3
MR DA BAMBHANIA for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER

Date of decision: 26/02/96

ORAL JUDGEMENT

Rule.

Mr. Bambhania Addl. Government Pleader appears and waives service of Rule for the respondents.

2. With the consent of both the learned advocates for the parties, the matter is taken up for final hearing today.

3. This petition is filed by the petitioner for appropriate writ, order or direction directing the respondent authorities to consider the petitioner as full

time lecturer in Government Arts and Commerce College, Visnagar, District Mehsana.

4. It is the case of the petitioner that she was appointed as a ad-hoc lecturer in Economics in Government Arts and Commerce College, Visnagar, Mehsana by an order dated October 30, 1994. However, her services came to be terminated by an order dated April 26, 1995. Again, the petitioner was appointed by an order dated July 15, 1995.

5. Mr. Vora the learned counsel for the petitioner contended that the petitioner must be treated as regularly appointed, particularly when the name of the petitioner was sponsored by the University Employment Exchange for selection. On the other hand, Mr. Bambhania learned Addl. Government Pleader for the respondents resisted the petition. He submitted that regular selection can be made only by Gujarat Public Service Commission. A similar question arose in a number of petitions. One of such petitions being SCA No. 12256 of 1994 came up for hearing before Mr. M.S. Parikh, J and the same was disposed of by an order dated January 12, 1996. It appears that a workable formula was adopted by my D.G. Karia J which reads as under:

"The petitioners are required to be continued in service subject to the same conditions on which the petitioners have been appointed. The petitioners are ready and willing to accept such conditions and therefore, subject to the conditions which are stipulated in the orders of appointment, the petitioners are entitled to serve the respondents till the regularly selected candidates from G.P.S.C. are available, or as and when other regularly selected candidates are available. It will be open to the respondents to terminate the service of the petitioners, in case such candidates are available."

Following the aforesaid workable formula, M.S. Parikh, J in para 5 has observed as under:

"To the aforesaid order, one more rider is required to be added and it is to the effect that if the petitioners service is not required for want of post or on account of non-availability of requisite strength of students, it would be open to the respondents to terminate the petitioner's service. As and when termination is to be made the principle

of "last come first go" should be applied"

In my opinion, the above formula requires to be adopted in the instant case also. The only thing is that while considering as to whether the services of the petitioner or any other employees are required to be terminated or not, various factors are required to be taken into consideration though 'by and large' the respondent authorities will consider and apply the principle of 'last come first go', They will have to consider availability of posts and/or availability of students in the relevant subject and other relevant factors.

6. For the above reasons the petition, requires to be disposed of and accordingly disposed of. Rule is made absolute to the extent indicated above. Liberty to apply in case of difficulties. No costs.

(C.K.Thakkar.J)

for correction pf. see the original.